

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

S. ALEJANDRO DOMINGUEZ,)	
)	
Plaintiff,)	No. 04 C 2907
)	
v.)	Judge Shadur
)	
PAUL HENDLEY,)	
)	
Defendants.)	

**PLAINTIFF'S MOTION FOR ENTRY OF AN ORDER
RELEASING THE LETTER OF CREDIT**

Plaintiff, ALEJANDRO DOMINGUEZ, by his counsel, LOEVY & LOEVY, requests that the Court enter an order releasing the letter of credit previously posted by the Defendants in lieu of a judgment bond. In support, Plaintiff states as follows.

1. Plaintiff won a trial in this matter in October of 2006. Thereafter, judgment was entered on the jury's verdict.

2. The Defendants appealed to the Seventh Circuit. As the Court may recall, it encouraged the parties to use a letter of credit as security rather than imposing the cost of a bond on the Waukegan taxpayers. Eventually, the City provided to Plaintiff the letter of credit in the amount of \$10,047,195.39, attached hereto as Exhibit A.¹

3. Defendants' appeal was denied. See Dominguez v. Hendley, 545 F.3d 585 (7th Cir. 2007).

¹ The amount of the letter of credit exceeds the judgment in order in order to account for counsels' best estimate of what the interest might be at the time of the draw down, as well as the second judgment for the first installment of Plaintiff's statutory attorneys fees.

4. The Defendants subsequently filed a petition with the Supreme Court seeking a writ of *certiori*.

5. That petition remained pending until today, May 18, 2009, when the Supreme Court denied it. See Exhibit B (relevant pages). There is thus no longer any justification for delay in satisfying the judgment.

6. The aforementioned letter of credit provides that it is available for presentation if accompanied by a statement ("Certificate") stating that:

The United States District Court for the Northern District of Illinois in the litigation entitled S. Alejandro Dominguez v. Paul Hendley, John Moran, City of Waukegan, Richard McCandless, and Lisa Kraus, Case No. 04 C 2907, United States District Court-Northern District of Illinois, Eastern Division has entered an order (which has not been vacated and is in full force and effect) authorizing or directing the undersigned to draw on First Midwest Bank Irrevocable Standby Letter of Credit No. 401018037-201 in an amount not less than the amount of the draft presented herewith.

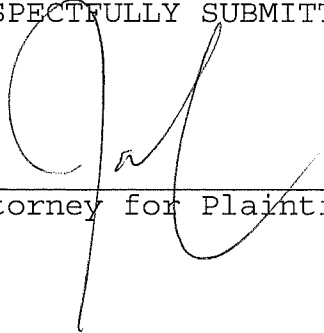
See Exhibit A.

7. Accordingly, now that all of the conditions precedent for payment under the letter of credit have been met, Plaintiff seeks a "Certificate" from this Court authorizing the transfer of the funds.²

² Given the passage of time occasioned by Defendants' appeal to the Supreme Court, the letter of credit is actually insufficient to cover all of the outstanding interest. The balance will have to be satisfied by Waukegan as well, though Plaintiff notes that the ancillary litigation involving Waukegan's coverage dispute with various insurance companies remains pending before Judge Kendall.

WHEREFORE, Plaintiff respectfully requests that the Court authorize him to draw down the letter of credit by entering the Order attached hereto as Exhibit C, as well as any other relief deemed appropriate.

RESPECTFULLY SUBMITTED:



Attorney for Plaintiff

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Jon Loevy
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CERTIFICATE OF SERVICE

I, Jon Loevy, an attorney, certify that on May 1⁹, 2009, I electronically filed the attached motion and counsel of record will be notified by electronic means.

S/ Jon Loevy